

Wrenham
affair

The true state of foure seuerall Suites: { John Wrenham pl. } the first whereof was betweene { Edward Fisher def. } in Chan-

IOHN WRENHAM father of the Plaintiff being employed by the late Countesse of Southampton to put to sale for her diuers Leases of houses and lands in Essex, Norfolke, and else-where, made offer of the same about 24. yeeres since, vnto the Defendant beeing then a purchaser, but a stranger to the Plaintifes said father.

The Defendant did thereupon take paines to see some of those parcels of land in Essex and elsewhere, so offered to be sold, but after conference by him had with the said Countesse, he contracted with her for a concurrent Lease for 60. yeeres, of certayne Lands in Norfolke, to commence in possession after a Lease thereof for 13. yeeres then in being, and paid her for the same 200. pounds ready money, and tooke an absolute Assaignement thereof to his owne vse, and in his owne name, wherunto the said Plaintifes father was a subscribed witnesse.

About a yeere after this contract, the Defendant came to understand, that the title of this Lease was defectiue in Lawe (the same beeing a Bishoppes Lease, and made after the Statute, *primo Elizabethae*) and therefore was desirous to depart therewith, whereupon the Plaintifes father perceiving the Defendant, in respect of the inualiditie of the title, to make small account of the said Lease, offered to agree with him for the same: so as the Defendant would lend him 150. pounds more then his price thereof, which the Defendant yeelding to doe, it was thereupon agreed betweene them, that for so much money as the said Lease did then stand the Defendant in, and for the said 150. pounds more lent, together with interest vnto the dayes of payment for both summes, amounting in all to 395. pounds, the said Plaintifes father should give securitie by bond of 600. pounds, with surety for payment thereof vnto the Defendant. And for further performance of the same agreement on the part of the Defendant, there were also at the same time, two short notes in writing, (by way of a *Memorandum* yet extant) deliuered by the one to the other vnder their hands, specifying only a promise of the Defendants, to assigne the said Lease vnto the Plaintifes father, if payment were made of the said 395. pounds, according to the said Bond of 600. pounds.

But the Plaintifes said father making default of payment, preuailed to continue the said agreement for a longer time, at which time also, making the like default of payment, then (notwithstanding the said Lease remained as questionable as before) the said agreement was by consent broken off, and the said Bond of 600. pounds redeliuered to the Plaintifes father, and other securitie taken for the said 150. pounds lent (*vt supra*). At which time also and shortly after, the Plaintifes father became further indebted to the Defendant for diuers other summes of money vpon Bonds: But touching the said money, disbursed for the said Lease, there was never afterwards any mention made thereof betweene them. And touching the said Bond for the same, it is yet remaining with the plaintiff, and by himselfe hath beeene produced in Evidence.

After this, the title of this Lease happening to be made good by the Statute of Confirmations, 43. Eliz. then would the Plaintifes father himselfe, and diuers other haue bought the same of the Defendant: and amongst them M. Iustice Gawdie offered him 800. pounds for the same, which the Defendant refusing, did afterwards demise the same to one Nicholas Harpley for 21. yeeres, to commence vpon the expiration of the Lease in possession, at 200. pounds rent *per annum*, aboue the Bishops rent, which was the vtmost value the same would then yeeld, the Plaintifes said father being himselfe then a meanes, that the said Harpley became Tenant to the Defendant at that rate.

The Defendant hauing made this particular estate to Harpley, endeauoured to sell his interest in the whole Lease, which M. Alderman Barkham of London might then haue bought of him for 1500. pounds, but he refused to giue so much, for that (as he thought) the land was over-rended by 200. pounds, and would not hold at 800. pounds afterwards the Defendant sold his said Interest to one Thomas Fisher for 1700. pounds. After all which, the Plaintifes father died, and then the Plaintiff finding the note of agreement and Bond aforesaid, amongst his fathers writings, plotted (as it seemeth) how to make vse of them, different from their true meaning, and thereupon as his Administrator exhibited his Bill, pretending that the Defendant had bought the said Lease in trust, to the vse of his said father, who was never knowne to claime the said Lease in trust of the Defendant at any time during his life, and yet knew that the Defendant did oftentimes offer the same to sale, and did lease the same in his owne name, referring the rent to his owne vse, as aforesaid.

The Defendant in his answere vpon oath, denied the trust, and made knownen the agreement, and dissolution thereof, and Lease and sale aforesaid. And also exhibited his Bill against the said Wrenham the sonne for 1800. pounds principall debt besides damages, due from the said Wrenham the father, by seuerall Bonds long forborne.

These causes proceeding to issue, the Plaintiff shunning the regular course of the Court in the examination of his witnessess, examined them by Commission in a Tauerne in S. Sepulchres parish (all of them beeing inhabitants within London) whose Depositions ought therefore to haue beeene suppressit, but the Defendant afterwards examining the same witnessess in Court, thereby discouered diuers falsities, contrarieties and differences in their seuerall Depositions. And as vnto the Plaintifes proofes, in and by the said Depositions, they haue for the matter of them no coherence at all with the Plaintifes charge in his Bill, but rather with the Defendants answere, and the agreement *supra*, as may appear by comparing them together in manner following.

1. For first, the Plaintiff setteth forth by Bill, that the Defendant at the request of the Plaintifes father, tooke the Lease in his owne name in trust to the vse of his father, and a Bond of 600. pounds from his father, and one Philpot for the payment of the said 200. pounds, disbursed for the said Lease, and for more money amounting in the whole to 395. pounds. In proofe whereof he produceth onely the said Philpot, who deposeth: 1. That he himselfe was the onely meanes to procure the Defendant to lay downe the money to buy the same Lease: *Ergo* it was not at the Plaintifes fathers request, *prost in Bills*. 2. That the consideration why the money was disbursed, was vpon securitie and interest for the forbearance. 3. That this money was borrowed vpon securitie giuen by Bond, according to an Agreement formerly made touching the said Lease to bee bought of the said Countesse. All which appeareth most false: 1. For that by other Depositions both of himselfe and of others, and by the charge of the Bill *supra*, it appeareth that the aforesaid securitie taken for the 395. pounds, and the Agreement made about a yeere after the purchase, are both the very same Securitie and Agreement, which this Philpot hath thus vntruly sworne to bee equall in time with or before the purchase: for if any other ever hath beeene or can be produced, the Plaintiff shall yet haue the Land for nothing. 2. This Philpot is apperantly false and contrary to himselfe in many of his Depositions: And in the relation of this supposed Trust, in three or four of his Depositions, he deliuereth as many distinct and seuerall kindes of Trusts: And yet he saith, that he never heard the Defendant say, That he did buy the said Lease in trust. 3. The cause of taking the said securitie of the Plaintifes father, did proceed out of the Defendants desire to sell the Lease, which appeareth both by the loane then of more money, *vt supra*, to effect the same, and for that (as the Plaintiff saith in his Bill) the Defendant then accounted the Lease not worth sixe pence. 4. The said Philpot beeing demanded, who was then

Philpot Lib.
B & C Intr. 2.

Idem
Lib. C Intr. 2.
Purchase
17. Nov. 1595.

Notes of agree-
ment, 12. Sept.
1595.

Barlee
Lib. C Inter. 4.

Security by
Bond, 12.
Sept. 1600.

Defendant
In his Answ. &
Reason
Lib. C Intr. 6.
Harpley

In his Answ.
Harpleys Lease
2. Feb. 1605.
Harpley
In his Answere.
"He is living.
Tho: Fish: pur.
10. March
1605.

BILL 1.
20. Jun. 1606.
Answ: 20. Jun.
supra.

BILL 2.
of Edward
Fisher.
Execu: Commis:
9. Sept. 1606.

Lib. A 2.
Intr. 3.
Lib. B. Intr. 4.

Barlee Lib. B.
Intr. 5.

Lib. B Intr. 9.



Lib. C Intr: 3. then bound for the repayment of the money, disbursed for the Lease at the time when the Defendant bought the same, He saith, that he remembreth neither who was bound, nor the penaltie of the Bond: And being demanded concerning the aforesaid agreement for the Defendants assigning of the Lease vnto the Plaintif's Father, vpon payment of the 395. pounds, for which the said *Philpot* himselfe was bound in the aforesaid Bond of 600. pounds, as it is expressed in the Plaintif's Bill; Thereof also hee saith, that hee is altogether ignorant: Then how can this *Philpot* bee a witness of the supposed trust, wherewith the Plaintiff chargeth the Defendant in respect of securitie taken for the money, paid for the Lease, and of an agreement thereupon, being so forgetfull and ignorant of both, as he confesseth himselfe to bee. Lastly, this *Philpot* was the Plaintif's sole and onely Deponent for proofe of the said pretended trust, whose evidence therefore by the rules of the Court should bee of no force, being but *singularis testis*, the rest being all extradi-
Lib. C: Intr. 10. ciall, speake but onely by heresay: And this *Philpot* also hath confess'd, that the Plaintif's father did owe vnto him for money and other things 180. pounds, or thereabouts, and that the Plaintiff had acknowledged a Judgement to him for the same, and that the Plaintiff said vnto him, that if hee had made an end of this Suite, he should be the better able to make him satisfaction: So as vpon the matter hee deposeth for himselfe, and not long after he fell into the Riuere of *Thames*, and died exceeding poore, and vnable to pay his debts.

2 The Plaintiff chargeth the Defendant by Bill, that he tooke a Bond of his Father, &c. *vñ supra*; And that there-upon the Defendant did promise, that at all times thereafter vpon payment of the said 200. pounds with interest, he would assigne the Lease vnto his Father: But this is most false, for if any such promise bee prooued, or appeareth to haue beeene euer made by the Defendant, the Plaintiff shall yet also haue the land for nothing.

3 The Plaintiff chargeth the Defendant by Bill, that by diuers of his reckonings made with the Plaintif's father vnder the Defendants hand, yet to bee seene, the Defendant demanded interest for the 200. pounds disbursed for the Lease, and for a long season was paid the same by the Plaintif's father: but howsoever it may appeare, that during the agreement aforesaid, the Defendant did reckon interest for the said 200. pounds, yet if after the dissolving of the said agreement, the Defendant did so much as demand interest for the 200. pounds, or if then or before, or sithence, there was euer any one pennie payed, to the Defendant of, or for the said 200. pounds, the Plaintiff shall yet likewise haue the land for nothing.

M. Scamblor of the Inner Temp. ple. 4 Albeit the obiections and proofes *supra* (being all in substance, wherewith the Defendant is charged touching the said pretended trust) are fully answered and auoyded as aforesaid, yet in further disproofe thereof, there are diuers yet living, of whom some are named in the margin; who can and will iustifie from the Plaintif's fathers owne mouth his disclaime of all interest, or right in this Lease, and his acknowledgment to haue nothing to do therewith, who appearre by their owne worth and reputation, (which none of the Plaintif's witnesses are) free from all suspicion of partialitie.

M. Warner of Linne. After witnessesse were examined the Plaintif's cause, was first brought to be heard before the L. *Kinloffe* late Master of the Rolles, who forbare to heare the same by reason of an offer then made by the Defendants Councell, without his direction or consent, *vñ*, that if the Defendant might haue all such debts as were due vnto him, by the Plaintif's father with damages, hee would then repurchase the Lease, and assigne the same to the Plaintiff: which offer was so made, for that the Plaintiff had neither assets, nor was of himselfe able to satisfie the said debts: and therefore they being desperate, and the Defendant hopelesse euer of getting any part of them, the hope by this offer was, that the Defendant might bee freed from further suite, by the abating so much out of them, as the worth of the Land came to, which was farre short of the said debts, and yet the Defendants damage and losse would haue beeene, vpon the matter, all one, by reason of the Plaintif's disabilitie for the payment of the said debts, as aforesaid.

20 of Mai. 5. Iac. Howsoever it was thereupon referred to Sir *John Tyndall*, and Doctor *Hickman* to examine what debts were due by the Plaintif's father to the Defendant: how long the same were forborne, and what they thought fit to be allowed in respect thereof, whereupon the Court would take such order for the Plaintif's paying of the said debts, and for the Defendants assigning of the said Lease as shold be meete.

16. No. 1607. Afterwards the Plaintiff by petition procures Sir *John Tyndall* to be put out of the said Reference, and M. *Thurbsie* to be put in his roome. *Theſe Masters examined the debts, and certifie them, and the ſmall Bonds upon which they were due,* in these words (*vñ*) that they came in all to 1800. pounds, principall debt, and 100. pounds damages as the Defendant pretended, but auerred by the Plaintiff not to be aboue 800. pounds, or 1000. pounds.

16. Dec. 1608. Hereupon the Plaintiff procures by another petition, another Reference to the same Masters, to heare and end both the matters concerning the trust and debts which depended vpon croſſe-Billes according to direction giuen by his Lordship, vnder the said petition, or otherwise to certifie.

They certifie in these words, that albeit there appeared vnto them no matter of any reall discharge which the Plaintiff could make good of his fathers debts before certified, yet for that the trust was prooued to their owne vnderstanding, and for that it appeared vnto them by the deposition of one witnesse, that the Defendant did once say, that he would discharge all debts betweene him and the Plaintif's father for 1000. pound, and that vpon payment of 800. pound thereof, he would assigne the Lease to the Plaintif's father: thereupon they chiefly grounding their opinions (albeit the same witnesse appeared vnto them by his Depositions, to be false and partiall, and that there was no probabilitie of truthe in his said testimony, nor any one reason to induce the same, which in iurice is required, in case when bare words shall abridge specialties) they holding the Defendant to the offer aforesaid, made by his councell, thought fit to propound this course, that the Plaintiff should pay to the Defendant but 2000. markes, for all his fathers debts, and for the said Lease also, and the Defendant to be ordered to assigne, or procure the same Lease to be assigned vnto the Plaintiff, or that els the Defendant should retaine the Lease, and pay the value thereof about 2000. markes, if it were sold *bona fide* before suit commenced, which the Defendant did not performe, for that he conceaued the same to be vniust and partiall.

But the Plaintiff taking aduantage of the said report, offers to stand thareunto, and obtaines an order for the Defendant to shew cause, why he shold not also accept thereof: Whereupon the Defendant moues to haue both causes heard in Court, for which purpose a day was then appointed.

29. No. 6. Iac. The causes comming to be heard, his Lorship, before the same were fully opened, moued the Defendant oftentimes to stand to the said Report of the Masters, wherunto the Defendant vnuilligly yeelding, before any Depositions read, the cause receiued end according to the Report, by which the Defendant was to haue Election either to giue or take: but the Plaintiff procures a Decree to be drawne vp, as by consent, cleane contrary, and as if the cause had receiued a full hearing, and for the Defendant to assigne ouer the said Lease to the Plaintiff, and the Plaintiff to pay 2000. markes to the Defendant without any Election, notwithstanding the Defendant had both Leased the said land at a yearly rent, and sold his whole interest therein long before suite commenced as appeareth.

20. Janu. 7. Iac. Which Decree the Plaintiff hauing thus drawne vp, the Defendant informed his Lordship of the misdrawing thereof, contrary to the intent of the Report, and therefore and for other reasons it was ordered, that the said Masters should re-heare the cause: But in respect the same was so Decreed with consent of parties as it was drawne vp, they refused to meddle therein.

15. Febr. 1609. The Plaintiff by this meanes hauing got a Decree for the said Lease without giuing satisfaction to the Defendant of the 2000. markes, did labour to get the possession of the lands, and to auoide the tenants Lease, and obtained an Injunction to the same purpose: But it appearing to the Court that the said Lease was made *bona fide* by the Defendant before suite com-



commenced vpon a racke rent, and that the Plaintif's father being a meanes of the tenants taking thereof, did neither then Harp^y in his nor euer in his hearing make shew of any right vnto the lands. Thereupon was a Writ of Restitution graunted to put him *answ* in possession of his Lease, which afterwards he injoying during his life, was by his Executor sold to one Henry Spillman K^t.

John Wrenham Plaintiff, Sir Edward Fisher and others, Defendants.

Afterwards the Court finding that the Decree obtained by the Plaintiff could not reach Thomas Fisher, vnto whom the Defendant had assigned the original Lease before suite commenced: nor those who claimed vnder his estate; It was ordered that the Plaintiff might (if he would) exhibite a new Bill against the laid Thomas Fisher, Sir Edw Fisher and others, who *7. May 8. Iac.* claimed interest from the said Thomas in the said Lease, to proove notice or priuitie in them of the trust before the laid assignement to the said Thomas Fisher; and that in the meane time the possession of the land should remaine as it then was, notwithstanding the said Decree.

Thereupon the Plaintiff exhibited his Bill against Edward Fisher the said former Defendant, the said Thomas Fisher, Sir BIL L. 3. Edward Fisher, Nicholas Harp^y, and others concerning the notice of the trust. Thereunto the Defendants make their an- *20. May 8. Iac.* sweres, and in them exprefly deny their knowledge, or heatesay of the truff, and the said Thomas Fisher further sayeth, that *Answe: in th.* his purchase was for the consideration of 1700. pound absolute, and *bona fide* without any condition of reuocation or man- *same monies* ner of fraude whatsoeuer.

The Defendants were afterwards ordered to bring their Assignements into Court to be scene and perused by the Plaintiff, which accordingly was done, And afterwards the Defendants were also ordered to bring into Court the witness(es) to the said Assignment made to the said Thomas to be there examined *viva voce* touching the same, which was also done. *28. Nov. 8. Iac.*

This Examination being put off vnto another day vpon the Plaintif's motion, hee also obtained an order to receaue the halfe yeares rent of the tenant vpon securtie to answere the Court, and the Defendant not to demaunde the said rents, and that Master Seriant Mountague, and, Master Attourney should mediate an end betweene the parties, so that the Plaintiff might be satisfied for the said lands according to the worth thereof, and so the Defendant to hold the land quietly; Which Reference the Defendant refused to yeeld vnto: for note this order for the Plaintiff to haue the rent and the full value of the land, was before any proofes taken in this cause. *4. May 9. Iac.*

The witness(es) being two to the said Assignment, were afterwards examined, and prooved the sealing of the Lease by Edward Fisher, and that the same was by him deliuered for the vse of the said Thomas Fisher in their presence: yet in that part of their Evidence, which was matter onely of circumstance, there happened some slight difference, as it should seeme of purpose interrogated to cause the same: howsoever there being nothing then done vpon the said examinations, his Lordship (resolving as it seemeth) that the Defendants should pay for the said Lease, according to the value thereof, notwithstanding the absolute purchase of the said Thomas Fisher, who thereby had, & enioyed the same and the rents therof, vntill his Assignment to the said Sir Edward Fisher did then order that the parties should attend Sir Edward Phillips the then Master of the Rolles, and Sir George Carew, who were to consider of the demands and offers on both sides touching the Defendants absolute purchasing of the Lease, as by the last precedent order of *quarto Maij* was directed, and thereupon end the matter, betweene them (if they could) or certifie their proceedings and opinions thereof. *25. May 9. Iac.*

The Defendant hereupon considering how by the orders of the Court the Plaintiff still got from him the whole rent of the land as it grew due, and how the Plaintiff also detayned in his hands the whole 2000 Markes due vnto the Defendants father by the Masters Report aforesaid, and was likely to keepe both land and money vntil the defendant would yeeld to some composition with him about the same, which the Defendant had long opposed to his owne great trouble, losse, and expence, but to the Plaintif's benefit, for that hee liued thereby; so that the continuance of this his expence, losse of the Rent of his land, and vse of money, would in short time proove more damageable then the purchase of his peace, Did therefore at the last yeeld to attend the said Referees, Who refusing to meddle in the cause further then as it stood referred vnto them in respect of the direction of the said Order, did onely labour an Agreement by way of Purchase, betweene the parties which they effected with their consent, and their counsels, as by order answereth in manner following (*viz.*) *11. Junij 9. Iac.* That the Defendant should keepe the land and pay for it vnto the Plaintiff after the rate of twelve yeares purchase according to the yearly value, as the land was worth to be let at the time of the foresaid Lease made to Harp^y. And for that it then appeared that 200. pound rent *per Annum* was at the same time reserved vpon the said Lease aboue the Bishoppes rent, the Defendant was by this agreement to pay for the said land without further Examination after that rate, which came to 240. pound, whereof the said 200. Markes should bee accounted as parcell: And that a Commission should bee awarded to examine what the land was worth according to the yearly value at the making of the said Lease to Harp^y, to the end that if any ouerplus were, it should be answered according to the rate aforesaid.

Both the Plaintiff and Defendant in further confirmation of the said agreement, subcribing to the said order, the Defendant thereupon made vp the two thousand markes, two thousand four hundred pounds, and paid the same vnto the Plaintiff, and also ioyned in Commission for the ouervalue aforesaid, which being executed and returned, the Plaintiff procures a Certificate only of his owne Commissioners concerning the same to be also returned, and then the point vndertaken was, whether any ouerplus were found, that the land might be worth aboue the 200. pound *per Annum*, besides the Bishoppes rent at the time aforesaid, which the Plaintiff pretending there was, and moouing to obtaine the same, his Lordship did thereupon referre the hearing and ending thereof vnto the said Master of the Rolles, who hearing the matter, did afterwards collect the proofes on both sides, and then set downe his opinion, and the reasons of his opinion, and thereof made a Certificate affirming that he did not finde any apparent or good ground to warrant any further increase of recompence to be giuen or allowed vnto the Plaintiff. The effect of whose Certificate appeareth in the reasons of his opinion, which are as followeth.

1 For that he found it prooved that before the Lease made to Harp^y, the said lands were never letten at aboue the some of 217. pounds 4. shillings 10. pence, either by Justice Gaudy, or any other vnder his title.

2 For that Fisher, for ought appearing vnto him, made the saide Lease to Harp^y without fine, or other consideration, then the rent of 243. pounds four shillings ten pence, thereupon reserved, whereof the ouerplus aboue the 200. pounds was the old rent payable to the Bishop.

3 For that it is directly deposid, that the rent of 243. pounds 4. shillings 10. pence, was as much as the land was worth at the time of Harp^y's Lease made vnto him, and that diuers refused to bee his partners therein, for the dearenesse of the bargaine, and that it was generally thought, Harp^y would bee vndone by taking it at so deare a rent, who was then a man of good value, and shortly after died little, or nothing worth.

4 For that hee found it plainly prooved, that most part of the said lands were subject at the time of Harp^y's Lease, to ouerflowings and drownings for most part of the yeere, and were by his charge and industry much bettered, and improoved by building, drayning, scouring, cutting or cleansing a great Draine or Riuier, and other ditches, and by maintaining the bancks, to his great charge.

The said Sir Edward Phillips having made the said Certificate, day was giuen for the Plaintiff to shew cause why the same should not be decreed, at which time the Plaintiff seeking delaies, and the said Sir Edward Phillips iustifying in Court, that his Certificate and end made, was rather for the benefit of the Plaintiff, then for the Defendant, yet there was no order made therein, but the matter was referred to another day, at his Lordships house, where all the proofes and the

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16.Oct: 11.14. Certificate of the Master of the Rolles being read, his Lordship disallowed thereof, and thought fit that the Defendant should allow a greater value, which he (rejecting proofs upon oath) grounded only upon the Certificate of the Plaintiffs Commissioners, but referreth the consideration of what further proportion the said Defendant should pay more for the said lands, after twelue yeeres purchase unto Sir *Le Strange Mordan* the Plaintiffs former Commissioner, and Sir *Henry Spilman* Knight, who was farmer of the said lands, upon whose Certificate his Lordship would make an apportionment himselfe or decree the same.

17.Feb. 1613. These two Commissioners disagreeing touching the said value, certified apart.

Sir *Henry Spilman* being immediate tenant to the whole land, certifieth what hee made thereof at the time of his Certificate, which was at the vittermost improvement 320. pounds per annum, or there abouts aboue the old rent, but as touching the point referred vnto him what this land was worth to be let aboue 18 yeeres before, viz. at the time when *Harpley* tooke his Lease, wherein he referreth himselfe to that which hee had formerly depos'd, touching the same, which in effect is, that the land was not then so much worth as *Harpley* gaue for it.

17.Dec: 1613. Sir *Le Strange Mordan* hauing no fellow in his opinion, certifieth the value to be aboue 388 pounds per annum, and to be so much worth yearly 18 yeeres before, viz. at the time of *Harpleys* Lease. These differing Certificates afterwards comming to be heard, there were many iust exceptions, and apparent falsities objected against the Certificate of Sir *Le Strange*, amongst which, one was, that in this his valuation, there was 68 pounds per annum, more then euer the land was let for vpon the racke: Also that he himselfe being a tenant vnder *Harpley* for 170 acres of the best part thereof, gaue for the same, vnder the rate of 9 shillings the acre, and did let part thereof to another without a pennie gaine, who by reason of the hardnesse of the bargaine was inforced to give it vp to him againe, and yet the same land in this his valuation is at 13 shillings 4 pence the acre: Notwithstanding, it was thus ordered at this hearing, that forasmuch as vpon reading of the said Certificates, it appeared that they varie in the value of the said land. This Court therefore thinkes fit that a medium should be made betweene both: It is therefore ordered that the Defendants shall betweene this and Saturday next, giue answere whether they will take the said land at the rate of 340 pounds per annum, and pay 12 yeeres purchase for the same, according to the said Decree (meaning the Decree against *Edward Fisher* in the first Suite *supra*.) and receive of him backe againe the 2400 pounds, with damages; as the Court shall thinke fit: wherein the Court thinkes fit that the Plaintiff shall pay damages for part at a low rate, and for the other part at a higher rate.

In which Order there appeareth a wilfull misconstruction of Sir *Henry Spilman*s Certificate, by admitting that to be the value 18. yeeres before, which he certifieth to be but the present value, and by not distinguishing the times, which was the point in question: For the certainty wherof, the Commission first went foorth vpon the end made by the Master of the Rolles. Also by this rate of 340. pounds per annum, his Lordship encreaseth 20. pounds Rent per annum more then euer the same Land before yeelded at the highest improvement, as appeareth by S. *Henry Spilman supra*.

But as vnto the said choice, for that after his Lordships said rate, the purchase came to 4080. pounds, whereof the Plaintiff had then receiued 2400. pounds, vpon the Master of the Rolles Order, and 100. pounds of the Rent of the Land, in all 3500. pounds, the remainder being 580. pounds, the Defendant acquainted his Councell, that he had rather haue his money againe with full dammages, which came to aboue 3500. pounds, then pay the said remainder, seeing that during *Harpleys* Lease there could be made but 200. pounds per annum. Whereupon his Councell mooued his Lordship vpon the said choice, that he might haue his money againe with full dammages: but in the very entrance of this motion, his Lordship denied to heare him, and put him off with this answere, viz. If the Defendant would haue his money, let him mooue for it the next Tearme, whereof there was an Order drawne vp, but not entred, because the motion and answere were both so imperfect.

3.Nov.12.1614. Yet thereof the Plaintiff taking aduantage, made offer in Court before the Defendants second motion, that in regard the Defendant had mooued to haue his mony againe, he was content, so he might haue the Land to pay the same, with dammages as should be fit, deduction being made to him for the profites of the said Lands, received by the Defendants, and such as claime under them, and by the same Order a day was given to the Defendant to shew cause, wherefore it should not be ordered according to the Plaintiffs motion and offer.

1. The Defendant thereupon informes by motion, that he never intended to accept of his money according to his Lordshippes offer, with high and low damages, nor otherwise then with his full damages, by any motion or choice that euer hee made.

2. That the foresaid Order enioyning him either to pay the value last ordered, or to accept of his 2400. pounds with damages, was without any mention of deductions.

3. That there was no cause of any deduction at all to be made, for that the Plaintiff had from time to time by the Orders of the Court, received the 200. pounds per annum Rent, reserved vpon *Harpleys* Lease, aswell before S. *Edward Philips* end made, as after.

4. That the Defendant for peace sake, and to auoid further Suite, would rather yeeld to the value by his Lordshippe set downe, so that either the 2400. pounds with the full damages, or the 2400. pounds, and the Rents received by the said Plaintiff of the said Lands might goe in part thereof. But his Lordship not respecting the end made by consent before Sir *Edward Philips*, nor the Defendants absolute purchase of the said Lands, nor any the offers or reas ons aforesaid, Ordered and decreed, according to the Plaintiffs offer in these words: That the Plaintiff and his Afflignes should haue, hold, and quietly enioy the saide Lands, and should receive and take the Rents and profits thereof, without let or interruption of the Defendants or any of them, and for that purpose the Defendants were also to affigne and set ouer all their right, title, and interest in the said Lands vnto the Plaintiff, or his Afflignes. And it is also ordered and decreed, That the said Plaintiff according to his laid offer, shall pay vnto the Defendant the said summe of 2400. pounds, with damages as shall be fit, deduction being therewith made vnto him of the profites of the said Lands received by the Defendants, and such as claime from them.

Hereupon the Defendant mouing, that the plaintiff might not keepe both the defendants money and land, whereof he received the Rent by force of the said Decree, and that he might haue his 2400. pounds, with full damages, before he parted with the interest of the Lease, it being the intent of all the former proceedings, that hee should not depart with his Land, but vpon the receipt of his money: It was ordered, that the Plaintiff should shew cause, wherefore damages should not be set downe to be paid together with the said 2400. pounds as aforesaid.

28.Iun. 13. 1614. But vpon cause shown, his Lordship made a reference to M. *Wolmeridge* one of the Masters of the Court, that he should consider thereof, and according to the intent of the former Orders and Decrees set downe, what dammages are fit to bee allowed, and what deductions ought to be made out of the money, and make report.

M. *Wolmeridge* in the handling of this busynesse, did so proportion the damages which hee allowed to the defendant, that the deductions which he also allowed vnto the Plaintiff, tooke them all away, which hee did after this manner: Finding the value which his Lordship set vpon the Land, to be 340. pounds per annum, and the cleare Rent reserved vpon the Tenants Lease but 200. pounds per annum, he allowed by way of deduction, the ouerplus aboue the said 200. pounds per annum, according to his Lordships said rate, which was 140. pounds per annum, for fife yeeres and a halfe, of the time that the tenant held the Land, viz. from the Plaintiffs first Decree vnto this last, which came to 770. pounds, notwithstanding the said Lease was so let, with the Plaintiffs fathers owne furtherance, at 200. pounds per annum, before any trust mentioned, or Suite



14.Nov. 12. 1614. DECREE. That the Plaintiff and his Afflignes should haue, hold, and quietly enioy the saide Lands, and should receive and take the Rents and profits thereof, without let or interruption of the Defendants or any of them, and for that purpose the Defendants were also to affigne and set ouer all their right, title, and interest in the said Lands vnto the Plaintiff, or his Afflignes. And it is also ordered and decreed, That the said Plaintiff according to his laid offer, shall pay vnto the Defendant the said summe of 2400. pounds, with damages as shall be fit, deduction being therewith made vnto him of the profites of the said Lands received by the Defendants, and such as claime from them.

Hereupon the Defendant mouing, that the plaintiff might not keepe both the defendants money and land, whereof he received the Rent by force of the said Decree, and that he might haue his 2400. pounds, with full damages, before he parted with the interest of the Lease, it being the intent of all the former proceedings, that hee should not depart with his Land, but vpon the receipt of his money: It was ordered, that the Plaintiff should shew cause, wherefore damages should not be set downe to be paid together with the said 2400. pounds as aforesaid.

28.Iun. 13. 1614. But vpon cause shown, his Lordship made a reference to M. *Wolmeridge* one of the Masters of the Court, that he should consider thereof, and according to the intent of the former Orders and Decrees set downe, what dammages are fit to bee allowed, and what deductions ought to be made out of the money, and make report.

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or Suite begun, and without Fine, vpon a racke rent, whereby it was impossible, the Defendant could euer haue this 140. pounds *per annum* thus deducted, and so the said Master *Woolveridge* so left vnto the Defendant the bare 2400. pounds, there being no colourable reason for the doing thereof, nor one word of any deduction, in any former Order, according to which, he was to haue made the same by this Reference, otherwise not.

The Defendant, notwithstanding the said Report, did mooue againe for his money and damages, and obtained, that his 14. Iun. 14. Iac. 2400. pounds should be presently payd vnto him by the Plaintiff, and that the matter of damages should be heard sometimes the next Tearme.

The Plaintiff b eing in contempt for nonpayment of the said 2400. pounds, according to the said Order, was therupon attached, yet afterwards his Lordship (albeit it was parcell of his Decree, and of diuers former Orders, that the Defendant shoulde haue damages, doeth now order, that the Defendant shoulde haue no more money then his bare 2400. pounds, and that the Defendant and his father shoulde be examined vpon Interrogatories, what secret estates they had made of the said Lease, and that the Plaintiff might proceed to draw the Assurance, and that his Lordship would vpon the seventh of November after, appoint when the Assurance should be perfected, and the money payd: And afterwards doeth appoint that Master *Woolveridge*, and Master *Moore* should consider of the perfecting of the Assurance, wherein *Harpleys Leafe* was to be excepted, and that when the same was perfected, his Lordship would appoint when the money shoulde be paid, and the Assurance sealed.

The proceedings after the last Lord Chancellors death.

But his Lordship died, leauing the Suite thus depending, whereupon the now Lord Chancellor was moued to heare this cause, and to give an end therunto, being then of 12. yeeres continuance, which comming to be heard, his Lordship was informed of the aforesaid first and originall Suite, and of diuers passages therein: but by reason of the aforesaid Decree in that cause, he would not meddle therewith, but as touching this second Suite still depending, he entred into examination thereof, and heard all the proceedings, and materiall orders in the cause, and finding that after the said first Decree, the possession of the land was in May, 8. Iac. *vs supra*, ordered to remaine where it was before the said Decree, vntill the right of the now Defendant should be determined vpon his second Suite, which right his Lordship found not determined, according to the issue in question vpon any iudicall hearing, nor so farre proceeded in, as to the examination of diuers witnesses, which the Defendant would haue examined: And finding also that by an agreement, made by the late Master of the Rolles, with the consent of both parties, and their Councell, the Defendant was to haue the land at 12. yeeres purchase, and had accordingly paid for the same 2400. pounds, at the least 6. yeeres before vnto the Plaintiff, who had besides received at the least 2000. pounds, of the rent of the land, and yet kept both land and money, which was in damage to the Defendant, by the losse of his rent, and forbearance of his money, aboue 7000. pounds. And finding that this caule had received no full end, but by an arbitrary course, by the said Master of the Rolles, which also was contradicted by crosse orders contradictory to themselves; And finding also that there was no cause to alter the value of the land, or the said agreement made, and certified by the said M. of the Rolles. First, his Lordship gaue further day vnto the Plaintiff to shew caule, wherefore the possession of the said Lease shoulde not be established with the Defendant by Injunction of this Court against him, or any claiming vnder him, any former order notwithstanding.

Then by the next order he dissolved a former order of the late Lord Chancellor of the 14. of October *supra*, which al- 20 of Mai. lowed to the Defendant but his bare 2400. pound wthout any damages.

And afterwards vpon the aforesaid considerations, and vpon a full hearing, hee made a finall Decree for the establishing 26. Iunij 15. Iac. of the said Lease and possession thereof in the Defendant against the Plaintiff, and all claiming from, by, or vnder him, according to the order and Certificate of the said Master of the Rolles.

But afterwards in contempt of the said Decree, the said Plaintiff (as appeareth vpon Record in these words) presumed by sundry clamorous petitions to importune his Maiestie for a review thereof, and thereupon his Maiestie searching into the state of the said cause, in his Princely Wisedome, found the said Plaintiff to be rather clamorous, then any way to bee grieved, and therefore rejected his petitions, with admonition. Neuerthelesse the said Plaintiff persisted in his said presumption, and great insolences, derogatorie to his Maiestie, and scandalous to the now Lord Chancellour, and to Sir Edward Philips Knight, late Master of the Rolles. Whereupon the said Plaintiff being brought *Ore tenus* into the high Court of Starre-chamber to receive condigne punishment for so high an offence, his Maiesties Attorney Generall informed the same Court thereof, and opened the state of the said cause, and the proceeding of the said now Lord Chancellor, which the said Court approoued, and declared the same to be iust, and imposed a seuerne sentence, and an exemplarrie punishment vpon the said Plaintiff for the offences wherewith he was charged, and by himselfe in person confessed at the Barre, as in and by the said sentence more at large appeareth.

1 So as considering first the Defendants estate in Law of this Lease which he purchased of *Thomas Fisher* for 1700. pound.

2 His repurchase thereof for 2400. pound more, which for peace sake hee paide vpon the Master of the Rolles end made by consent.

3 His owne and his fathers feuerall paimentes and great losses, as First, the said 1700. pound vpon his owne purchase, Secondly, the 2400. pound paid vpon the said repurchase, Thirdly, 2000. pound and vpwards of the Rent of the Land which the Plaintiff received, Fourthly, the residue of the 1800. pounds debt of the Plaintifffs fathers, more then the 2000. markes aforesaid: All which summes with the ordinary damages for the same, vnto the time of this Lord Chancellors Decree, amount to 1200. pounds and vpwards, besidess the expence and charges in these Suites of 15. yeeres continuance.

4 Considering that his estate was confirmed by the Decree of this Court.

5 That the same Decree was afterwards approoued by his Maiestie, and by the Honourable Court of Star-Chamber, The Defendant for these reasons was in hope to haue enjoyed his land, without further expence or trouble.

But neuerthelesse, the now Lord Chancellor hath since his said Decree, of the land vnto the said S. Ed. Fisher, against the said *Wrenham*, and all claiming from, by, or vnder him, according to the Master of the Rolles Order as aforesaid, and since the said sentence in Starre-Chamber, made in approbation of the said Decree, Confirmed and Decreed diuers secret and fraudulent estates, of the greatest part of the same Land, pretended to haue beeene made by the said *Wrenham* vnto his Sisters and others of his friends, whereof one beareth date within sixe dayes, and all the rest within two dayes, before the said last Lord Chancellor left his place, and which before the Defendants said Decree were neuer heard of: for *Wrenham* himselfe, after those estates so secretly made, still kept the possession of the same Land, and made Leases thereof vnto others in his owne name, and to his own vse: besides, these secret estates appear at the best to be but mortgages made, not for any money then disbursed, but colourably for the consideration of old debts, and reckonings for wares, and such like commodities, and some of them (if they should be enjoyed, would be worth aboue souertimes the money disbursed for the same. All which said secret estates, they claime by colour of the aforesaid last Decree, made to *Wrenham*, albeit he had no such interest thereby, and therefore could not grant what hee had not in him, as appeareth by the reasons herein, both precedent and subsequent: And which is more strange, his Lordship hath sithence also by Order, enioyed the said Sir Edward Fisher, to pay vnto the said *Wrenham* wife 20. pounds a yere during her life out of the same Lands, being no partie to any of the former proceedings, or therin at all mentioned.

S V I T E 4.
DECREES.

16. Iun. 17. Iac.

12. Feb. 18. Iac.

13. Nov. 17. Iac.

8



Thus the said Sir Edward Fisher being by this viciſſitude without iuft cause, or president, bereft of his money, and the greatest part of his land also, yet resting his hopes on the goodnesse of the time, which as a Iubile happeneth for the relife of the distressed, hath therefore preferred his Bill into the high Court of Parliament, where the said Wrenham taking encouragement (as it seemeth) through his impunitie, and (to gaine some good opinion by making the first complaint) did first preferre a Petition of his pretended grievances, touching part of the aforesaid proceedings, to the effect following: That vpon a Motion without a Bill preferred, to reuere or rewiew the said Decrees, the now Lord Chancellor tooke away the said Land from him, (having had the possession thereof almost three yeeres) and established the same vpon the now Defendant, to the ouerthrow of the said Decrees, without iuft cause, new matter, legall proceeding, or president.

Whereunto albeit a bare deniall (in respect of that herein before declared) might serue for answere, yet in further maniſtation of the many falſties and vnruthes conteined in his said Petition, the said Sir Edward Fisher offereth the ſeuerall anſwers, and reaſons ensuing:

1 First, that which his Lordship did decree, was (as appeareth) made vpon two or three deliberate hearings, and not vpon a bare Motion, as is falſly ſuggeſted.

2 It is falſe, that this Motion was to reuere the ſaid decrees: for as vnto the firſt decree, the Defendant Sir Edward Fisher being no partie thereunto, and the poſſeſſion of the Land being alſo in May, 8. Iac. ordered to remaine where it then was, notwithstanding the ſaid decree, there was no cauſe, why any thing ſhould be mooued or done concerning the ſame.

3 As vnto the ſecond decree, it was thereby intended, that the Plaintiff ſhould haue the poſſeſſion onely of the rents, and not of the Land, as is falſly intimated that hee had: For the Defendant himſelfe neuer had more then a reuerſion, the poſſeſſion ſtill going with Harpleys Lease, which by diuerſe of the laſt Lord Chancellors Orders was excepted out of the auſſurance which was intended, that the Defendant ſhould haue made vnto the Plaintiff: ſo that by what meaſes ſoeuer Wrenham got the poſſeſſion, it appeareth, that it was neither meant to bee, nor could be giuen him by this decree.

4 The ſame decree was alſo abortiuē, and procuraſ vnder Seale before his due perſecution, and before the Defendants right determined vpon any iudicall hearing, and without legall proceeding vpon the iſſue in queſtion.

5 It was alſo grounded vpon the Plaintiffs owne offer, whereunto the Defendant neuer affiſted: for the choyce giuen to the Defendant, by order of the 7. of July 12. Iac. was not the ſame which the Plaintiffs offer is: neither (if it were) did the Defendant accept thereof, neither if the Defendant did accept thereof, was the Plaintiff to enioy the Land by any new decree, but onely by the former, at the Defendants ſufferance, as appeareth by the ſame Order 7. July 12. Iac.

6 The Defendants were by this decree to assigne their Interēſt vnto the Plaintiff, for that purpoſe, that he might enioy the ſame without their let or interruption, and it appeareth by the ſaid decree it ſelfe, and all ſubsequent orders that this Assignment was not to be made by the Defendant before payment by the Plaintiff, therefore it cannot be absolute, depending as it doth vpon the Defendants Assignment, and his Assignment vpon the Plaintiffs payment, which as appeareth ſupra, was neuer performed.

7 It was neuer determined in what manner, nor when this Assignment ſhould be made, nor in what manner, nor when the money ſhould be payed by this decree, or any of the ſubsequent Orders.

8 Thereby alſo the Defendant was allowed his money with damages, but by the ſame hand they were afterwards tooke away, and onely his bare money allowed without damages, which could not haue beeſe, if the ſaid decree had beeſe abſolute.

9 It appeareth, that the Plaintiff ſtood in contempt vpon an attachment for not paying the Defendant his money, according to the intent of this Decree, which being thereby by him broken, it ought not to be vnto the Defendant binding: for admitting the Plaintiff would neuer haue paid this money, as it appeareth, he neuer intended: If then the Defendant ſhould haue loſt both Land and money, the intent of this Decree was ſo farre from Iuſtice or equitie, as if it had beeſe to doe an apparent wrong.

So as with whaſ glaſſe or ſooſe of Equieris ſcruſor, ſo id iubile, defenſeth his Caufe, in telling his owne tale, or by any his Petitions, Bookes, or Breuiats made thereof, yet as a further meaſes to bring the truthe to light, the Defendant offereth, that if either any thing materiall affirmed in this whole Breuiate be in ſubſtance vnrue: or if many things conteined in his ſaid Petitions, Bookes, and Breuiats be not both ſcandalous and falſe, Hee this Defendant will (besides his damages of 12000. pounds ſuſtained as aforefaid) yet give him the Lands in queſtion for nothing.

Tandem vincit Veritas.

